

21.05.2025
Ct. No.1
Item No.10
RP/SM

MAT/732/2025
with
CAN 1 of 2025

M/S. CART ROADWINGS JV AND ANR.
VS
THE ADDITIONAL COMM CGST AND CX AND ORS.

Mr. Ankit Kanodia, Adv.
Ms. Megha Agarwal, Adv.
Ms. Tulika Roy, Adv.

.... For the Appellants

Mr. Uday Shankar Bhattacharya, Adv.
Mr. Tapan Bhanja, Adv.

...For the CGST Authority

Mr. Samir Kr. Datta, Adv.
Mr. Jasojit Mukherjee, Adv.

...For the U.O.I.

1. This intra-court appeal has been filed by the petitioner challenging the order dated 5th May, 2025, passed in WPA 3032 of 2025. In the said writ petition the appellants had challenged the adjudication order passed under section 74 of WBGST/CGST Act, 2017 dated 8th January, 2025. Since the order is an appealable order the learned Single Bench has relegated the appellants to avail the Appellate remedy.
2. After elaborately hearing Mr. Kanodia, learned advocate for the appellants and Mr. Bhattacharya, learned senior standing counsel assisted by Mr. Bhanja, learned advocate, we are of the view that the learned Single Bench was fully justified in

relegating the appellants to avail the Appellate remedy.

3. It may be true that the person in-charge of the taxation matters of the appellants, which is a joint venture Company was suffering from terminal illness but going by the facts it is seen that there has been an inspection which was conducted, panchanama was recorded, statements have been recorded and the matter has been in progress for quite sometime. Therefore, all factual issues need to be placed before the Appellate authority so that the Appellate authority can examine the matter. The interest of the appellants has been sufficiently protected and safeguarded by the learned Single Bench by observing in paragraph-8 of the impugned order wherein the Appellate authority was directed to treat the appeal petition as a first statement of defence of the petitioners and shall also provide an opportunity of hearing to the petitioners and decide the appeal on merits and in accordance with law subject to the appellants complying with all other statutory formalities. It goes without saying that the powers of the Appellate authority are co-terminus with that of the original authority. The Appellate authority will be entitled to re-appreciate the factual position, accept documents and call for a remand report

from the lower authority and take a decision in the matter. The entire adjudicating authority's file can be called for and examined for the correctness of the decision making process as well as the decision itself. Therefore, the powers of the Appellate authority are wide enough to take note of all contentions that may be advanced by the appellants in the appeal petition.

4. Therefore, we find no ground to interfere with the impugned order. Accordingly, the appeal along with the connected application is dismissed. However, the appellants are directed to file appeal petition within a period of 15 days from the date of receipt of the server copy of this order after the pre-deposit condition is complied with. The appeal petition shall be entertained without reference to the period of limitation and appeal be disposed of on merits and in accordance with law after affording an opportunity of personal hearing to the authorised representative of the appellants.
5. No Costs.
6. Urgent photostat certified copy of this order, if applied for, be supplied to all the parties upon compliance of all formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)

